

# Senate Study Bill 1316

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
WAYS AND MEANS BILL BY  
CHAIRPERSON BOLKCOM)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to state taxes by eliminating and limiting tax  
2 credits available under certain economic development programs  
3 and agricultural assets transfer agreements, eliminating the  
4 carryback of net operating losses, modifying refund interest  
5 provisions, and including retroactive applicability date and  
6 other applicability date provisions.  
7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
8 TLSB 2703SC 83  
9 tw/sc:mg/8

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1 1 DIVISION I  
1 2 ADDITIONAL RESEARCH AND DEVELOPMENT TAX CREDIT  
1 3 Section 1. Section 15.335A, subsection 1, Code 2009, is  
1 4 amended to read as follows:  
1 5 1. Tax incentives are available to eligible businesses as  
1 6 provided in this section. The incentives are based upon the  
1 7 number of new high quality jobs created and the amount of the  
1 8 qualifying investment made according to the following  
1 9 schedule:  
1 10 a. The number of new high quality jobs created with an  
1 11 annual wage, including benefits, equal to or greater than one  
1 12 hundred thirty percent of the average county wage is one of  
1 13 the following:  
1 14 (1) The number of jobs is zero and economic activity is  
1 15 furthered by the qualifying investment and the amount of the  
1 16 qualifying investment is one of the following:  
1 17 (a) Less than one hundred thousand dollars, then the tax  
1 18 incentive is the investment tax credit of up to one percent.  
1 19 (b) At least one hundred thousand dollars ~~but less than~~  
~~1 20 five hundred thousand dollars~~, then the tax incentives are the  
1 21 investment tax credit of up to one percent and the sales tax  
1 22 refund.  
1 23 ~~(c) At least five hundred thousand dollars, then the tax~~  
~~1 24 incentives are the investment tax credit of up to one percent,~~  
~~1 25 the sales tax refund, and the additional research and~~  
~~1 26 development tax credit.~~  
1 27 (2) The number of jobs is one but not more than five and  
1 28 the amount of the qualifying investment is one of the  
1 29 following:  
1 30 (a) Less than one hundred thousand dollars, then the tax  
1 31 incentive is the investment tax credit of up to two percent.  
1 32 (b) At least one hundred thousand dollars ~~but less than~~  
~~1 33 five hundred thousand dollars~~, then the tax incentives are the  
1 34 investment tax credit of up to two percent and the sales tax  
1 35 refund.  
2 1 ~~(c) At least five hundred thousand dollars, then the tax~~  
~~2 2 incentives are the investment tax credit of up to two percent,~~  
~~2 3 the sales tax refund, and the additional research and~~  
~~2 4 development tax credit.~~  
2 5 (3) The number of jobs is six but not more than ten and  
2 6 the amount of the qualifying investment is one of the  
2 7 following:  
2 8 (a) Less than one hundred thousand dollars, then the tax  
2 9 incentive is the investment tax credit of up to three percent.  
2 10 (b) At least one hundred thousand dollars ~~but less than~~  
~~2 11 five hundred thousand dollars~~, then the tax incentives are the  
2 12 investment tax credit of up to three percent and the sales tax  
2 13 refund.  
2 14 ~~(c) At least five hundred thousand dollars, then the tax~~

2 15 incentives are the investment tax credit of up to three  
~~2 16 percent, the sales tax refund, and the additional research and~~  
~~2 17 development tax credit.~~  
2 18 (4) The number of jobs is eleven but not more than fifteen  
2 19 and the amount of the qualifying investment is one of the  
2 20 following:  
2 21 (a) Less than one hundred thousand dollars, then the tax  
2 22 incentive is the investment tax credit of up to four percent.  
2 23 (b) At least one hundred thousand dollars ~~but less than~~  
~~2 24 five hundred thousand dollars~~, then the tax incentives are the  
2 25 investment tax credit of up to four percent and the sales tax  
2 26 refund.  
2 27 ~~(c) At least five hundred thousand dollars, then the tax~~  
~~2 28 incentives are the investment tax credit of up to four~~  
~~2 29 percent, the sales tax refund, and the additional research and~~  
~~2 30 development tax credit.~~  
2 31 (5) The number of jobs is sixteen or more and the amount  
2 32 of the qualifying investment is one of the following:  
2 33 (a) Less than one hundred thousand dollars, then the tax  
2 34 incentive is the investment tax credit of up to five percent.  
2 35 (b) At least one hundred thousand dollars ~~but less than~~  
~~3 1 five hundred thousand dollars~~, then the tax incentives are the  
3 2 investment tax credit of up to five percent and the sales tax  
3 3 refund.  
3 4 ~~(c) At least five hundred thousand dollars, then the tax~~  
~~3 5 incentives are the investment tax credit of up to five~~  
~~3 6 percent, the sales tax refund, and the additional research and~~  
~~3 7 development tax credit.~~  
3 8 b. In lieu of paragraph "a", the number of new high  
3 9 quality jobs created with an annual wage, including benefits,  
3 10 equal to or greater than one hundred sixty percent of the  
3 11 average county wage is one of the following:  
3 12 (1) The number of jobs is twenty-one but not more than  
3 13 thirty and the amount of the qualifying investment is at least  
3 14 ten million dollars, then the tax incentives are the local  
3 15 property tax exemption, the investment tax credit of up to six  
3 16 percent, ~~and the sales tax refund, and the additional research~~  
~~3 17 and development tax credit.~~  
3 18 (2) The number of jobs is thirty-one but not more than  
3 19 forty and the amount of the qualifying investment is at least  
3 20 ten million dollars, then the tax incentives are the local  
3 21 property tax exemption, the investment tax credit of up to  
3 22 seven percent, ~~and the sales tax refund, and the additional~~  
~~3 23 research and development tax credit.~~  
3 24 (3) The number of jobs is forty-one but not more than  
3 25 fifty and the amount of the qualifying investment is at least  
3 26 ten million dollars, then the tax incentives are the local  
3 27 property tax exemption, the investment tax credit of up to  
3 28 eight percent, ~~and the sales tax refund, and the additional~~  
~~3 29 research and development tax credit.~~  
3 30 (4) The number of jobs is fifty-one but not more than  
3 31 sixty and the amount of the qualifying investment is at least  
3 32 ten million dollars, then the tax incentives are the local  
3 33 property tax exemption, the investment tax credit of up to  
3 34 nine percent, ~~and the sales tax refund, and the additional~~  
~~3 35 research and development tax credit.~~  
4 1 (5) The number of jobs is at least sixty-one and the  
4 2 amount of the qualifying investment is at least ten million  
4 3 dollars, then the tax incentives are the local property tax  
4 4 exemption, the investment tax credit of up to ten percent, ~~and~~  
4 5 the sales tax refund, ~~and the additional research and~~  
~~4 6 development tax credit.~~  
4 7 Sec. 2. Section 15.335A, subsection 2, paragraph a, Code  
4 8 2009, is amended by striking the paragraph.  
4 9 Sec. 3. Section 15A.9, subsection 8, Code 2009, is amended  
4 10 by striking the subsection.  
4 11 Sec. 4. Section 15E.192, subsection 3, Code 2009, is  
4 12 amended to read as follows:  
4 13 3. A city may create an economic development enterprise  
4 14 zone as authorized in this division, subject to certification  
4 15 by the department of economic development, by designating up  
4 16 to four square miles of the city for that purpose. In order  
4 17 for an enterprise zone to be certified pursuant to this  
4 18 subsection, an enterprise zone shall meet the distress  
4 19 criteria provided in section 15E.194, subsection 3. Section  
4 20 15E.194, subsection 2, shall not apply to an enterprise zone  
4 21 certified pursuant to this subsection. For the fiscal period  
4 22 beginning July 1, 2007, and ending June 30, 2010, each fiscal  
4 23 year a cumulative total of not more than twenty-five million  
4 24 dollars worth of incentives and assistance under section  
4 25 15E.196, subsections 1, 2, 3, ~~4~~, and 6, shall be awarded to

4 26 eligible businesses that apply to an enterprise zone  
4 27 commission for incentives and assistance during that fiscal  
4 28 year and that are located in an enterprise zone certified  
4 29 pursuant to this subsection. For purposes of this subsection  
4 30 and section 15E.194, subsection 3, "city" means a city that  
4 31 includes at least three census tracts, as determined in the  
4 32 most recent federal census.  
4 33 Sec. 5. Section 15E.196, subsection 4, Code 2009, is  
4 34 amended by striking the subsection.  
4 35 Sec. 6. Section 422.10, subsection 5, Code 2009, is  
5 1 amended by striking the subsection.  
5 2 Sec. 7. Section 422.33, subsection 5, paragraphs f and g,  
5 3 Code 2009, are amended by striking the paragraphs.  
5 4 Sec. 8. Section 15.335, Code 2009, is repealed.  
5 5 Sec. 9. APPLICABILITY DATE. This division of this Act  
5 6 applies to contracts entered into on or after July 1, 2009.

#### 5 7 DIVISION II

#### 5 8 TAX CREDIT LIMITS

5 9 Sec. 10. NEW SECTION. 15.119 AGGREGATE TAX CREDIT LIMIT  
5 10 FOR CERTAIN ECONOMIC DEVELOPMENT PROGRAMS.

5 11 1. Notwithstanding any provision to the contrary in  
5 12 sections 15.327 through 15.336, 15.393, 15E.191 through  
5 13 15E.197, 260E.5, 403.19A, and 422.11E and section 422.33,  
5 14 subsection 9, the department shall not authorize an amount of  
5 15 tax credits for purposes specified in subsection 2 in excess  
5 16 of one hundred seventy-five million dollars in any fiscal  
5 17 year.

5 18 2. The department, with the approval of the board, shall  
5 19 adopt by rule a procedure for allocating the aggregate tax  
5 20 credit limit established in this section among the following  
5 21 programs administered by the department:

5 22 a. The high quality job creation program administered  
5 23 pursuant to sections 15.326 through 15.336.

5 24 b. The film, television, and video project promotion  
5 25 program administered pursuant to sections 15.391 through  
5 26 15.393.

5 27 c. The enterprise zones program administered pursuant to  
5 28 sections 15E.191 through 15E.197.

5 29 d. The industrial new jobs training credit from  
5 30 withholding program administered pursuant to section 260E.5.

5 31 e. The targeted jobs withholding tax credit program  
5 32 administered pursuant to section 403.19A.

5 33 f. The assistive device tax credit program administered  
5 34 pursuant to section 422.11E and section 422.33, subsection 9.

5 35 3. The department shall submit to the department of  
6 1 revenue on or before August 15 of each year a report on the  
6 2 tax credits allocated pursuant to this section and the tax  
6 3 credits awarded under each of the programs described in  
6 4 subsection 2.

6 5 Sec. 11. Section 175.37, Code 2009, is amended by adding  
6 6 the following new subsection:

6 7 NEW SUBSECTION. 10. The amount of tax credit certificates  
6 8 that may be issued pursuant to this section shall not exceed  
6 9 three million dollars in any fiscal year. The authority shall  
6 10 issue the tax credit certificates on a first-come,  
6 11 first-served basis.

6 12 Sec. 12. APPLICABILITY DATE. This division of this Act  
6 13 applies to contracts and agreements entered into or tax  
6 14 credits awarded on or after July 1, 2009.

#### 6 15 DIVISION III

#### 6 16 NET OPERATING LOSS CARRYBACK

6 17 Sec. 13. Section 422.35, subsection 11, Code 2009, is  
6 18 amended to read as follows:

6 19 11. If after applying all of the adjustments provided for  
6 20 in this section and the allocation and apportionment  
6 21 provisions of section 422.33, the Iowa taxable income results  
6 22 in a net operating loss, such net operating loss shall be  
6 23 deducted as follows:

6 24 a. The For tax years beginning prior to January 1, 2009,  
6 25 the Iowa net operating loss shall be carried back three

6 26 taxable years for a net operating loss incurred in a  
6 27 presidentially declared disaster area by a taxpayer engaged in  
6 28 a small business or in the trade or business of farming. For  
6 29 all other Iowa net operating losses for tax years beginning  
6 30 prior to January 1, 2009, the net operating loss shall be  
6 31 carried back two taxable years or to the taxable year in which  
6 32 the corporation first commenced doing business in this state,  
6 33 whichever is later.

6 34 b. The An Iowa net operating loss for a tax year beginning  
6 35 on or after January 1, 2009, or an Iowa net operating loss

7 1 remaining after being carried back as required in paragraph

7 2 "a" or "f" ~~or if not required to be carried back~~ shall be  
7 3 carried forward twenty taxable years.  
7 4 c. If the election under section 172(b)(3) of the Internal  
7 5 Revenue Code is made, the Iowa net operating loss shall be  
7 6 carried forward twenty taxable years.  
7 7 d. No portion of a net operating loss which was sustained  
7 8 from that portion of the trade or business carried on outside  
7 9 the state of Iowa shall be deducted.

7 10 e. The limitations on net operating loss carryback and  
7 11 carryforward under sections 172(b)(1)(E) and 172(h) of the  
7 12 Internal Revenue Code shall apply.

7 13 f. Notwithstanding paragraph "a", for a taxpayer who is  
7 14 engaged in the trade or business of farming as defined in  
7 15 section 263A(e)(4) of the Internal Revenue Code and has a loss  
7 16 from farming as defined in section 172(b)(1)(F) of the  
7 17 Internal Revenue Code including modifications prescribed by  
7 18 rule by the director, the Iowa loss from the trade or business  
7 19 of farming, for tax years beginning prior to January 1, 2009,  
7 20 is a net operating loss which may be carried back five taxable  
7 21 years prior to the taxable year of the loss.

7 22 g. ~~Provided, however, that The deductions described in~~  
7 23 ~~paragraphs "a" through "f" of this subsection are allowed~~

7 24 ~~subject to the requirement that a corporation affected by the~~  
7 25 ~~allocation provisions of section 422.33 shall be permitted to~~  
7 26 ~~deduct only such that portion of the deductions for net~~  
7 27 ~~operating loss and federal income taxes as that is fairly and~~  
7 28 ~~equitably allocable to Iowa, under rules prescribed by the~~  
7 29 ~~director.~~

7 30 Sec. 14. RETROACTIVE APPLICABILITY DATE. This division of  
7 31 this Act applies retroactively to January 1, 2009, for tax  
7 32 years beginning on or after that date.

7 33 DIVISION IV  
7 34 REFUND INTEREST

7 35 Sec. 15. Section 422.25, subsection 3, Code 2009, is  
8 1 amended to read as follows:

8 2 3. If the amount of the tax as determined by the  
8 3 department is less than the amount paid, the excess shall be  
8 4 refunded with interest, the interest to begin to accrue on the  
8 5 first day of the ~~second~~ third calendar month following the  
8 6 date of payment or the date the return was due to be filed, or  
8 7 the extended due date by which the return was due to be filed  
8 8 if ninety percent of the tax was paid by the original due  
8 9 date, or was filed, whichever is the latest, at the rate in  
8 10 effect under section 421.7 counting each fraction of a month  
8 11 as an entire month under the rules prescribed by the director.  
8 12 If an overpayment of tax results from a net operating loss or  
8 13 net capital loss which is carried back to a prior year, the  
8 14 overpayment, for purposes of computing interest on refunds,  
8 15 shall be considered as having been made on the date a claim  
8 16 for refund or amended return carrying back the net operating  
8 17 loss or net capital loss is filed with the department or on  
8 18 the first day of the ~~second~~ third calendar month following the  
8 19 date of the actual payment of the tax, whichever is later.  
8 20 However, when the net operating loss or net capital loss  
8 21 carryback to a prior year eliminates or reduces an  
8 22 underpayment of tax due for an earlier year, the full amount  
8 23 of the underpayment of tax shall bear interest at the rate in  
8 24 effect under section 421.7 for each month counting each  
8 25 fraction of a month as an entire month from the due date of  
8 26 the tax for the earlier year to the last day of the taxable  
8 27 year in which the net operating loss or net capital loss  
8 28 occurred.

8 29 Sec. 16. Section 422.91, Code 2009, is amended to read as  
8 30 follows:

8 31 422.91 CREDIT FOR ESTIMATED TAX.

8 32 1. Any amount of estimated tax paid is a credit against  
8 33 the amount of tax due on a final, completed return, and any  
8 34 overpayment of five dollars or more shall be refunded to the  
8 35 taxpayer with interest, the interest to begin to accrue on the  
9 1 first day of the ~~second~~ third calendar month following the  
9 2 date of payment or the date the return was due to be filed or  
9 3 was filed, whichever is the latest, at the rate established  
9 4 under section 421.7, and the return constitutes a claim for  
9 5 refund for this purpose. Amounts less than five dollars shall  
9 6 be refunded to the taxpayer only upon written application in  
9 7 accordance with section 422.73, and only if the application is  
9 8 filed within twelve months after the due date for the return.

9 9 2. In lieu of claiming a refund, the taxpayer may elect to  
9 10 have the overpayment shown on its final, completed return for  
9 11 the taxable year credited to the tax liability for the  
9 12 following taxable year.

9 13 Sec. 17. RETROACTIVE APPLICABILITY DATE. This division of  
9 14 this Act applies retroactively to January 1, 2009, for tax  
9 15 years beginning on or after that date.

9 16 EXPLANATION

9 17 This bill relates to tax credits for economic development  
9 18 and agricultural assets transfers, to net operating losses,  
9 19 and to refund interest.

9 20 Division I of the bill eliminates the additional research  
9 21 activities tax credit and makes a number of conforming  
9 22 amendments. The division applies to contracts entered into on  
9 23 or after July 1, 2009.

9 24 Division II of the bill sets a maximum aggregate limit on  
9 25 the amount of tax credits the department of economic  
9 26 development may issue pursuant to the high quality jobs  
9 27 creation program, the film television and video project  
9 28 promotion program, the enterprise zones program, the  
9 29 industrial new jobs training credit from withholding program,  
9 30 the targeted jobs withholding tax credit program, and the  
9 31 assistive device tax credit program. The department may not  
9 32 issue more than \$175 million of tax credits under these  
9 33 programs.

9 34 Division II also limits the amount of tax credits that may  
9 35 be issued under the agricultural assets transfer tax credit  
10 1 program to \$3 million.

10 2 Division II applies to contracts and agreements entered  
10 3 into or tax credits awarded on or after July 1, 2009.

10 4 Division III ends the carryback of net operating losses of  
10 5 corporations in tax years beginning on or after January 1,  
10 6 2009, and provides only for the current carryforward period of  
10 7 twenty taxable years.

10 8 Division III applies retroactively to January 1, 2009, for  
10 9 tax years beginning on or after that date.

10 10 Code sections 422.25 and 422.91 provide for the accrual of  
10 11 interest on refunds due to individual and corporate income  
10 12 taxpayers. The refund period begins on the first day of the  
10 13 second calendar month following the date of payment or the  
10 14 date the return was due to be filed. Division IV of the bill  
10 15 provides that the period begins on the first day of the third  
10 16 calendar month.

10 17 Division IV applies retroactively to January 1, 2009, for  
10 18 tax years beginning on or after that date.

10 19 LSB 2703SC 83

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